

**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD  
SAN FRANCISCO BAY REGION**

**COMPLAINT NO. R2-2002-0120**

**MANDATORY MINIMUM PENALTIES  
IN THE MATTER OF  
CITY OF SAN MATEO WASTEWATER TREATMENT PLANT  
SAN MATEO COUNTY**

Pursuant to California Water Code Section 13385, this Complaint is issued to the City of San Mateo Wastewater Treatment Plant (hereinafter the Discharger) to assess mandatory minimum penalties, based on a finding of the Discharger's violations of Waste Discharge Requirements Order Nos. 01-071 and 95-055 (NPDES No. CA 0037541) for the period between January 1, 2000 and June 30, 2002.

The Executive Officer finds the following:

1. On June 20, 2001, the San Francisco Bay Regional Water Quality Control Board (hereinafter the Regional Board) adopted Waste Discharge Requirements Order No. 01-071 to regulate discharges of waste from the treatment plant owned and operated by the Discharger. Provision 27 states the Order becomes effective 10 days after adoption. Prior to the effective date, Order No. 95-055, adopted on March 15, 1995, was in force.
2. Water Code Section 13385(h)(1) requires the Regional Board to assess a mandatory minimum penalty of three thousand dollars (\$3,000) for each serious violation.
3. Water Code Section 13385(h)(2) defines a "serious violation" as any waste discharge of a Group I pollutant that exceeds the effluent limitation contained in the applicable waste discharge requirements by 40 percent or more, or any waste discharge of a Group II pollutant that exceeds the effluent limitation by 20 percent or more.
4. Water Code Section 13385(i) requires the Regional Board to assess a mandatory penalty of three thousand dollars (\$3,000) for each violation, not counting the first three violations, if the discharger does any of the following four or more times in any six consecutive months:
  - (a) Violates a waste discharge requirement effluent limitation.
  - (b) Fails to file a report pursuant to Section 13260.
  - (c) Files an incomplete report pursuant to Section 13260.
  - (d) Violates a toxicity discharge limitation contained in the applicable waste discharge requirements where the waste discharge requirements do not contain pollutant-specific effluent limitations for toxic pollutants.
5. Water Code Section 13385(l) allows the Regional Board, with the concurrence of the discharger, to direct a portion of the penalty amount to be expended on a supplemental environmental project (SEP) in accordance with the enforcement policy of the State Water Resources Control Board. The discharger may undertake an SEP for up to the full amount of the penalty for liabilities less than or equal to \$15,000. If the penalty amount exceeds \$15,000, the maximum penalty amount that may be expended on a SEP may not exceed \$15,000 plus 50 percent of the penalty amount that exceeds \$15,000.

6. Effluent Limitations

Order Nos. 95-055 and 01-071 include the following applicable effluent limitations:

***B. EFFLUENT LIMITATIONS***

*The following effluent limitations apply to effluent discharged to the lower San Francisco Bay outfall (Sampling Station E-001):*

1) *The effluent shall not exceed the following limits:*

- b. Total Suspended Solids (TSS) Daily Maximum of 60 mg/L (October through April)*
- d. Settleable Matter Monthly Average of 0.1 ml/l-hr and Daily Maximum of 0.2 ml/l-hr*
- e. Total Chlorine Residual Instantaneous Maximum of 0.0 mg/L*
- f. Turbidity Daily Maximum of 30 NTU*

2) *Toxic Substances: The effluent shall not exceed the following limit(s):*

*Cyanide Daily Maximum of 10 µg/L*

7. Summary of Effluent Limit Violations

During the period between January 1, 2000 and June 30, 2002, the Discharger had sixteen violations of its effluent discharge limits. These are:

two TSS Daily Maximum violations on January 23, and February 11, 2000;  
two Turbidity Daily Maximum violations on January 23, and February 11, 2000;  
nine Chlorine Residual Instantaneous Maximum violations on May 18, August 9, August 16, 2000, and January 11, January 22, March 30, and June 15, 2001, and April 7 and June 26, 2002;  
two Total Settleable Matter Daily Maximum violations on September 14 and 16, 2000; and,  
one Cyanide Daily Maximum violation on June 5, 2001.

8. Total Suspended Solids is a Group I pollutant

The exceedances of the TSS daily maximum limit on January 23, and February 11, 2000, are non-serious violations as each exceedance is less than 40% of the effluent limit. Because there have not been four or more violations in the respective 180-day periods, they are not subject to mandatory minimum penalties (MMPs).

9. Turbidity is a Group I pollutant

The exceedance of the effluent turbidity daily maximum limit on January 23, 2000, is a non-serious violation as the exceedance is less than 40% of the effluent limit. Because there have not been four or more violations in the 180-day period, it is not subject to a mandatory minimum penalty. The exceedance of the effluent turbidity daily maximum limit on February 11, 2000 is a non-serious violation. Because it is the fourth violation in the 180-day period, it is subject to a \$3,000 fine.

10. Chlorine residual is a Group II pollutant

All nine exceedances of the chlorine residual instantaneous maximum limit are serious violations, as these violations are 20% or greater than the effluent limitation. Each of the nine chlorine residual limit violations is subject to a \$3,000 fine, for a total fine of \$27,000.

11. Total Settleable Matter is a Group I pollutant

The two exceedances of the effluent total settleable matter daily maximum limit on September 14 and 16, 2000, are serious violations because these violations are 40% or greater than the effluent

limitation. Both of the total settleable matter limit violations are subject to a \$3,000 fine, for a total fine of \$6,000.

12. Cyanide is a Group II pollutant

The effluent cyanide daily maximum limit exceedance on June 5, 2001, is a serious violation, as this violations is 20% or greater than the effluent limitation. The effluent cyanide daily maximum limit violation is subject to a \$3,000 fine.

13. Water Code Exception

Water Code Section 13385(j) provides some exceptions related to the assessment of MMPs for effluent limit violations. None of the exceptions apply to the violations cited in this Complaint.

14. MMP Assessment

Thirteen of the sixteen violations are subject to mandatory minimum penalty, as detailed in Table 1. The total MMP amount is \$39,000.

15. Suspended MMP Amounts

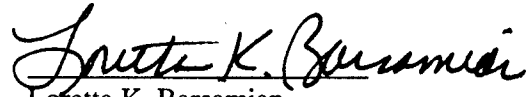
Instead of paying the full penalty amount, the Discharger may spend an amount of up to \$27,000 on a SEP acceptable to the Executive Officer. Any such amount expended to satisfactorily complete a SEP will be permanently suspended.

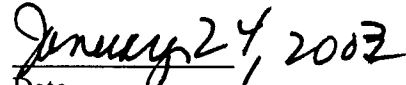
**THE CITY OF SAN MATEO WASTEWATER TREATMENT PLANT IS HEREBY GIVEN NOTICE THAT:**

1. The Executive Officer proposes that the Discharger be assessed mandatory minimum penalties in the total amount of \$39,000.
2. The Regional Board will hold a hearing on this Complaint on February 19, 2003, unless the Discharger waives the right to a hearing by signing the last page of this Complaint and checks the appropriate box. By doing so, the Discharger agrees to:
  - a) Pay the full penalty of \$39,000 within 30 days after the signed waiver becomes effective, or
  - b) Propose an SEP in an amount equivalent to a maximum \$27,000. Pay the balance of the penalty within 30 days after the signed waiver becomes effective. The sum of the SEP amount and the amount of the fine to be paid to the State Water Pollution Cleanup and Abatement Account shall equal the full penalty of \$39,000.
3. If the Discharger chooses to propose a SEP, it must submit a preliminary proposal by February 3, 2003 to the Executive Officer for conceptual approval. Any SEP proposal shall also conform to the requirements specified in Section IX of the Water Quality Enforcement Policy, which was adopted by the State Water Resources Control Board on February 19, 2002. If the proposed SEP is not acceptable to the Executive Officer, the Discharger has 30 days from receipt of notice of an unacceptable SEP to either submit a new or revised proposal, or make a payment for the suspended penalty of \$27,000. All payments, including any money not used for the SEP, must be payable to the State Water Pollution Cleanup and Abatement Account. Regular reports on the SEP implementation shall be provided to the Executive Officer according to a schedule to be determined. The completion report for the SEP shall be submitted to the Executive Officer within 60 days of project completion.
4. The signed waiver will become effective on the next day after the public comment period for this Complaint is closed, provided that there are no significant public comments on this Complaint during

the public comment period. If there are significant public comments, the Executive Officer may withdraw the Complaint and reissue it as appropriate.

5. If a hearing is held, the Regional Board may impose an administrative civil liability in the amount proposed or for a different amount; decline to seek civil liability; or refer the matter to the Attorney General to have a Superior Court consider imposition of a penalty.

  
Loretta K. Barsamian  
Executive Officer

  
Date

## WAIVER

(The signed waiver will become effective on the next day after the public comment period for this Complaint is closed, provided that there are no significant public comments on this Complaint during the public comment period. If there are significant public comments, the Executive Officer may withdraw the Complaint and reissue it as appropriate.)

☐ Waiver of the right to a hearing and agree to make payment in full.

By checking the box, I agree to waive my right to a hearing before the Regional Board with regard to the violations alleged in Complaint No. R2-2002-0120 and to remit the full penalty payment to the State Water Pollution Cleanup and Abatement Account, c/o State Water Resources Control Board at 1515 Clay Street, Oakland, CA 94612, within 30 days after the signed waiver becomes effective as indicated above. I understand that I am giving up my right to be heard, and to argue against the allegations made by the Executive Officer in this Complaint, and against the imposition of, or the amount of, the civil liability proposed.

☐ Waiver of the right to a hearing and agree to make payment and undertake a SEP.

By checking the box, I agree to waive my right to a hearing before the Regional Board with regard to the violations alleged in Complaint No. R2-2002-0120, and to complete a supplemental environmental project (SEP) in lieu of the suspended liability up to \$27,000. I also agree to remit payment of the balance of the fine to the State Water Pollution Cleanup and Abatement Account (CAA) within 30 days after the signed waiver becomes effective. I understand that the SEP proposal shall conform to the requirements specified in Section IX of the Water Quality Enforcement Policy, which was adopted by the State Water Resources Control Board on February 19, 2002, and be subject to approval by the Executive Officer. If the SEP proposal, or its revised version, is not acceptable to the Executive Officer, I agree to pay the suspended penalty amount for the SEP within 30 days of a letter from the Executive Officer denying the approval of the proposed SEP. I also understand that I am giving up my right to argue against the allegations made by the Executive Officer in the Complaint, and against the imposition of, or the amount of, the civil liability proposed. I further agree to satisfactorily complete the approved SEP within a time schedule set by the Executive Officer. I understand that failure to adequately complete the approved SEP will require immediate payment of the suspended liability to the CAA.

\_\_\_\_\_  
Name (print)

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Title/Organization

### Table 1: Violations - City of San Mateo Wastewater Treatment Plant

[illegible]